

DATE: February 6, 1990

TO: Allen M. Jones, Executive Assistant,
Eighth District

FROM: City Attorney

SUBJECT: Public Facilities and Recreation Committee -
Proposed "Retreat" - Brown Act Requirements

You have requested our opinion with regard to any legal requirements which must be met in order for the PF&R Committee members to schedule a "retreat" for the purpose of "team building" and "discussion of how to better work together to more effectively accomplish the committee's agenda." Your memorandum further indicated that it is proposed that such a meeting be held outside of City Hall, that "no policy or program issues would be considered," and that the City Manager and attorney would be in attendance.

You posed the following question: "Would such a meeting need to be open to the public and would public notice of the meeting be required?"

The Ralph M. Brown Act, Government Code section 54950 et seq, requires that "all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter." Section 54953 Government Code.

The term "legislative body" is defined in sections 54952, 54952.2 and 54952.3 and includes advisory committees such as the PF&R Committee. Section 54954.2 requires the posting of agendas of regular meetings of legislative bodies at least 72 hours before a meeting.

The question therefore is, "Does a 'retreat' by a legislative body for the purpose of 'team building' and discussing 'how to better work together' constitute a 'meeting' for the purposes of the Brown Act?"

Opinion No. 80-713 of the California Attorney General's Opinions, issued on October 30, 1980 (63 Op. Att'y Gen. 820), contains an extensive analysis of what constitutes a "meeting" for the purposes of the Brown Act. The basic rule as described in the Attorney General's Opinion is that the word "meeting" includes "all gatherings consisting of a quorum or more where the public's business is to be discussed."

The opinion concludes that even where there is no intention to take any action, a public meeting occurs wherever

deliberations or consideration of any of the public's business is involved. It appears therefore that in order to constitute a "meeting" it is necessary that the "public's business" must be the subject matter of a discussion.

The Attorney General's Opinion concluded that "the law . . . does not preclude attendance by a quorum or more at social events where no public business is discussed." Further, the opinion stated "attendance at professional conferences by a quorum or more of a board or commission are permissible. However, care must be taken to avoid discussing matters which are before the board, or may potentially come before the board."

Applying the above rules to the proposed "retreat," and your representation that no policy or program issues would be discussed, it is our conclusion that such a meeting would not fall under the provisions of the Brown Act and would therefore not have to be open to the public nor would it have to be noticed. It must be emphasized that, in order to be outside the ambit of the Brown Act, it is mandatory that no matter of the public's business be discussed at the retreat. The term "public's business" would include any item that is before or may come before the PF&R Committee or the City Council or before the City Council sitting as the Redevelopment Agency or the Housing Authority. The broad definition of public's business is necessitated because of the fact that the five members of the PF&R Committee constitute a quorum of the Council, the Authority and the Redevelopment Agency.

JOHN W. WITT, City Attorney

By

Harold O. Valderhaug
Deputy City Attorney

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